IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR.JUSTICE G.CHANDRAIAH

–

WRIT PETITION NO: 3301 of 1988

Between:

1. Smt.K.Tulasamma, (died) per LR

W/o K.Subbarami Reddy,

Aged about 67 years,

R/o Gudur,

Nellore District.

2. Kaliki Jayachandra Reddy,

s/o late Subbarami Reddy,

56 years, r/o Gudur,

Nellore District.

(Petitioner No.2 brought on record as LR of deceased/

petitioner as per Court Order dated 14-07-2005 in WPMP.No.1892 of 2004.)

……Petitioners

A n d

1. The Government of Andhra Pradesh,

Represented by its Secretary,

Home (General-A) Department,

Secretariat Buildings,

Hyderabad.

2. The Director of Town and Country Planning,

Government of Andhra Pradesh,

Hyderabad.

3. The Joint Collector, Nellore,

4. The Municipal Commissioner,

Gudur Municipality,

Nellore District.

5. Sri Chadalawada Venkateswarlu,

Proprietor Sunder Mahal,

Gudur, Nellore District.

6. Sri C.Krishna Murthy Naidu,

Proprietor, M/s Sundar Mahal,

Gudur, Nellore District.

(R-4 dismissed for default vide court order,

dated 04-02-1998)

……..Respondents

Petition under Article 226 of the Constitution of India Praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to issue an order, direction, or writ, particularly one in the nature of a Writ of Mandamus declaring the order of the 1st respondent Government of Andhra Pradesh in G.O.Rt.No.2395, Home (General-A) Department, dated 04-09-1987 whereunder the 1st respondent has granted exemption from the operation of paras 3(1)(a) and 3(1)(b) of Appendix-I to the A.P.Cinemas (Regulation) Rules, 1970 in favour of Sri C.Krishna Murthy Naidu, Proprietor of M/s Sundar Mahal, Gudur town, Nellore District, the 6th respondent herein for construction of a permanent theatre in Sy.No.593-1 of Gudur town to enable the Collector for grant of 'No Objection Certificate' to the 6th respondent herein and consequential order of the Joint Collector, Nellore in R.Dis.(M) 1356/87, dated 29-09-1987 whereunder 'No Objection Certificate' was granted by the 3rd respondent in favour of the 6th respondent and the further order of the 3rd respondent in R.Dis.(M) 1642/87, dated 14-12-1987 whereunder permission under Rule 9(B) of A.P.Cinemas (Regulation) Rules, 1970 was granted to Chadalawada Venkateswarlu, Proprietor of Sunder Mahal, Gudur Town to construct a permanent Cinema Building in Sy.No.593/1 of Gudur town, Nellore District, is illegal and without jurisdiction and unenforceable and pass such other orders in the interests of justice.

Counsel for the Petitioner: MS.MANJULA REPRESENTING SRI P.KRISHNA REDDY

Counsel for the Respondents 1 to 3 :GP FOR HOME/INDUSTRIES

Counsel for the Respondent No.4:SRI SAMBASIVA PRATAP/P.RAJA GOPAL RAO

Counsel for the Respondent Nos.5 and 6: MR. M.P.CHANDRAMOULI, MR.K.JANARDHAN RAO

The Court made the following:
ORDER:

This writ petition is filed seeking a mandamus declaring the order of the 1st respondent in G.O.Rt.No.2395, Home (General-A) Department, dated 04-09-1987, whereunder the 1st respondent has granted exemption from the operation of paras 3(1)(a) and 3(1)(b) of Appendix-I to the A.P.Cinemas (Regulation) Rules, 1970 in favour of the 6th respondent herein for construction of a permanent theatre in Sy.No.593-1 of Gudur town to enable the Collector for grant of 'No Objection Certificate' to the 6th respondent herein and consequential order of the 3rd respondent in R.Dis.(M) 1356/87, dated 29-09-1987, whereunder 'No Objection Certificate' was granted by him in favour of the 6th respondent and the further order of the 3rd respondent in R.Dis.(M) 1642/87, dated 14-12-19878, whereunder permission under Rule 9(B) of A.P.Cinemas (Regulation) Rules, 1970 was granted to the 5th respondent to construct a permanent Cinema Building in Sy.No.593/1 of Gudur town, Nellore District, as illegal and without jurisdiction.

The petitioner has sought for an interim direction in WPMP.No.4160 of 1988 to suspend the operation of the order of the first respondent, dated 04-09-1987 and the consequential orders of the 3rd respondent, dated 29-09-1987 and 14-12-1987. The petitioner also sought an injunction in WPMP.No.4159 of 1988

restraining the 5th and 6th respondents from making any constructions within a distance of 6.5 metres from Northern Joint compound wall separating the proposed theatre and the petitioners' house.

This court by orders dated 28-04-1988 in WPMP Nos.4559 and 4516 of 1988 granted interim injunction restraining the 5th and 6th respondents from making any construction within a distance of 6.5 metres from the end of the building separating the proposed theatre and directed the writ petition be posted for final hearing after vacation.

Thereafter, the petitioner filed WPMP.No.733 of 1989 and this Court by order dated 15-06-1989, directed the District Collector/any other officer deputed by him to inspect the premises after giving notice to all parties and submit a report as to whether the constructions that are being made were in violation of the interim injunction granted by this Court on 28-04-1988, within a period of two months from the date of receipt of the order.

A counter affidavit was filed on behalf of respondents
5 and 6 in the writ petition.

While the matter stood thus, the petitioner filed WPMP.No.1892 of 2004 seeking to bring him on record, as writ petitioner, in the place of late Smt. K.Thulasamma,
for proper adjudication of the matter, as she expired on
11-10-2003.

Yesterday, when the writ petition was listed, it
was brought to the notice of this Court by the learned
counsel that the LR petition filed on behalf of the petitioner
is pending. Accordingly, this Court directed that
WPMP. No.1892 of 2004 be listed today along with the main writ petition.

Today, when the LR petition has come up for hearing, Ms.Manjula, representing Sri P.Krishna Reddy, learned counsel for the petitioner, submits that for proper adjudication of the matter either before this Court or before the authorities, it is just and necessary to bring the legal representatives on record since the petitioner expired. She further submits that there is compromise between the parties in the writ petition, as such, it needs no adjudication on merits of the

case and seeks permission of the Court to withdraw the writ petition.

Under the above facts and circumstances and in the interest of justice, WPMP.No.1892 of 2004 is allowed. Further, the writ petition is dismissed as withdrawn in terms of the letter dated 18-09-2003 filed by the petitioner. No costs.

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14-07-2005.

Lrkm.

To

1. The Secretary, Government of Andhra Pradesh,

Home (General-A) Department,

Secretariat Buildings, Hyderabad.

2. The Director of Town and Country Planning,

Government of Andhra Pradesh, Hyderabad.

3. The Joint Collector, Nellore,

4. The Municipal Commissioner, Gudur Municipality,

Nellore District.

5. The Government Pleader for Home, High Court Buildings,

High Court of A.P., Hyderabd (O.U.T)

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